

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

WILLIAM A. CRAFT and DARCEL
BIRTON,

Plaintiffs,

v.

ELIZABETH HURLEY, *Judge, Chief Judge, St.
Joseph Superior Court, et al.,*

Defendants.

CAUSE NO. 3:21-CV-926 DRL-MGG

OPINION AND ORDER

William A. Craft, a civil detainee without a lawyer, filed a complaint and a motion for leave to proceed *in forma pauperis*. The court won't grant the motion when the complaint fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2). Mr. Craft names Chief Judge Elizabeth Hurley, Assistant Chief Judge John M. Marnocha, and Judge Cristal Brisco as defendants [ECF 1 at 1]. He alleges the defendants violated his constitutional rights by giving him a longer sentence than necessary and not providing him with a fair commitment hearing [*id.* 2]. Among other things, he seeks a fair, impartial, and diverse trial on his commitment case and an order discharging him from Logansport State Hospital [*id.* 3].

Mr. Craft (or his alleged guardian, Darcel Birton) cannot proceed against these defendants because judges are immune from suit. "A judge has absolute immunity for any judicial actions unless the judge acted in absence of all jurisdiction." *Polzin v. Gage*, 636 F.3d 834, 838 (7th Cir. 2011). "A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the clear absence of all jurisdiction." *Stump v. Sparkman*, 435 U.S. 349, 359 (1978) (citation and quotations omitted).

“The usual standard in civil cases is to allow defective pleadings to be corrected, especially in early stages, at least where amendment would not be futile.” *Abu-Shawish v. United States*, 898 F.3d 726, 738 (7th Cir. 2018). However, “courts have broad discretion to deny leave to amend where . . . the amendment would be futile.” *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 432 (7th Cir. 2009). Such is the case here.

For these reasons, this case is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2) because the defendants are immune and filing this lawsuit was frivolous.

SO ORDERED.

January 14, 2022

s/ *Damon R. Leichy*
Judge, United States District Court